

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

ORDER No. 01-026

WASTE DISCHARGE REQUIREMENTS AND WATER QUALITY CERTIFICATION FOR:

CITY OF PLEASANTON

CITY OF PLEASANTON MUNICIPAL GOLF COURSE PROJECT, HAPPY VALLEY,
PLEASANTON, ALAMEDA COUNTY

The California Regional Water Quality Control Board, San Francisco Bay Region, hereinafter Board, finds that:

1. The City of Pleasanton (hereinafter, the City or the discharger) proposes to construct an 18-hole municipal golf course and associated project elements on a 343 acre site in unincorporated Alameda County, on land to be incorporated into the City. The project consists of the following elements:
 - a. Construction of an 18-hole municipal golf course on 142 acres, including a driving range, clubhouse, and associated parking and infrastructure;
 - b. Construction of 34 single-family homes and associated infrastructure on 25 acres;
 - c. Construction of 2 ponds to be used for golf course irrigation water storage and storm water and flood flow detention; and,
 - d. Provision of sanitary sewer and water service to the proposed homes and golf course, and the opportunity for existing residents in Happy Valley to pay to connect to these services.
2. There are approximately 4.73 acres of jurisdictional waters of the United States, including wetlands, on the project site. These are comprised of:
 - a. Freshwater seasonal creeks: 26,224 linear feet (2.46 acres);
 - b. 0.36 acres freshwater ponds;
 - c. 1.46 acres freshwater seeps; and,
 - d. 0.45 acres freshwater seasonal wetlands.
3. The project will result in the direct placement of fill into or other direct disturbance of 1.93 acres of waters of the United States, including wetlands, that comprise much of the headwaters of Happy Valley Creek, tributary to the Arroyo de la Laguna, Alameda Creek, and San Francisco Bay. Additionally, the project would temporarily impact 0.22 acres of a freshwater pond to perform seismic stabilization work on its earthen dam. The project's direct fill impacts are as follows:
 - a. 9,005 linear feet of freshwater seasonal creeks;
 - b. 0.23 acres freshwater seeps; and,

- c. 0.28 acres freshwater seasonal wetlands.
4. Waters on the project site may serve as habitat for the federally-listed threatened California Red-Legged Frog (*rana aurora draytonii*, hereinafter CRLF), and are known to serve as habitat for the state listed species of special concern and federal candidate-for-listing California Tiger Salamander (*ambystoma californiense*).
5. The project will indirectly impact beneficial uses of waters of the State through the operation and maintenance of the proposed golf course, including the use of fertilizers, pesticides (i.e., pesticides, herbicides, fungicides, and associated chemicals), golf course irrigation and maintenance, and disturbance from regular human use. The proposed roads, parking, and homes will indirectly impact beneficial uses through the discharge of urban runoff pollutants (e.g., oil and grease, heavy metals, pathogens, nutrients, etc.).
6. To mitigate for its permanent fill of 9,005 linear feet of freshwater seasonal creeks, 0.23 acres of freshwater seeps, and 0.28 acres of seasonal wetlands, the City will complete the following:
 - a. Reconstruct approximately 9,040 linear feet of filled creek within the proposed golf course, including riparian plantings;
 - b. Enhance 6,735 feet of remaining channel within the proposed golf course;
 - c. Create 0.47 acres of seasonal freshwater ponds (5 ponds, within wetlands proposed to be created), and replace and seismically stabilize the earthen dam on the temporarily impacted 0.22 acre pond;
 - d. Create 0.13 acres of freshwater seeps;
 - e. Create 0.89 acres of seasonal wetlands;
 - f. Acquire in fee title, place a conservation easement on, and implement a grazing/resource management plan on two portions of the site. Together, these Areas contain a total of 10,449 linear feet of seasonal freshwater creek. Within these Areas, 3,650 linear feet would be planted, and some planting would occur on a further 1,200 linear feet.
 - i) The 115-acre "East Side Conservation Area;"
 - ii) The 61-acre "South End Conservation Area;"
 - g. Place a conservation easement and implement a grazing/resource management plan on a 107-acre parcel that comprises the remainder of the headwaters of Happy Valley Creek. This parcel contains 6,274 linear feet of seasonal freshwater creek;
 - h. Provide \$250,000 (approximately 30% of acquisition costs) to the East Bay Regional Park District (EBRPD) to assist with the purchase of the 160-acre Neu Property on Pleasanton Ridge;
 - i. Provide funding to EBRPD for the preservation and enhancement of portions of Sinbad Creek and the Sinbad Creek watershed on Pleasanton Ridge; and,
 - j. Continue its planned implementation of a riparian habitat interpretive program at the Alviso Adobe historic site in west Pleasanton.

7. This Order requires the City to submit, acceptable to the Executive Officer, the following documents, reports, or studies prior to beginning construction of its project. Some documents are more fully described elsewhere in this Order's Findings. As of the date of adoption of this Order, the items listed below either have been submitted to the Board and are not complete or otherwise acceptable to the Board or have not been submitted. The City submitted, on January 16, 2001, a schedule, based on events, for final submittal of the reports listed below.
 - a. On-site wetland mitigation plan;
 - b. Creek recreation, revegetation, and monitoring plan;
 - c. Grazing/Resource management plan;
 - d. Conservation easements, including holders;
 - e. Irrigation/detention pond construction, operation, and management plan;
 - f. Road and golf cart path creek crossing designs;
 - g. Post-construction Storm Water Management Plan (SWMP) for the residential, golf clubhouse, parking, and road portions of the project;
 - h. Construction-stage Storm Water Pollution Prevention Plan (SWPPP);
 - i. Final golf course chemical application and management plan (CHAMP);
 - j. A plan demonstrating that the proposed project, including the golf course, appropriately minimizes water use, and maximizes opportunities for use of reclaimed water, water reuse, and recycled water; and,
 - k. An implementation plan for providing additional mitigation in the Sinbad Creek watershed.
8. The City has submitted a report titled "Financial Assurance for Implementing the Happy Valley Golf Course/Open Space Project Mitigation Measures," dated January 12, 2001, detailing the financial assurances it will implement to ensure the establishment and success, in perpetuity, of the proposed mitigation. This report is generally acceptable to the Board. This Order requires submittal of a final Financial Assurances plan prior to commencement of project construction. The report identifies three measures to provide appropriate assurance:
 - a. The City will adopt a resolution establishing a reserve fund for the project's mitigation maintenance, monitoring, and estimated replacement expenses. The City Council would appropriate money annually to fund this reserve.
 - b. The City will fund endowments of at least \$280,000 with the California Department of Fish and Game (CDFG) to ensure that the proposed preserved open space areas immediately adjacent to the project are appropriately managed in perpetuity.
 - c. The City will establish an enterprise fund for the project that is separate from the City's general fund. This will ensure that revenues from the golf course project are not intermingled with general fund revenues and are used to pay for related project expenses, which generally include operation and maintenance of the golf course, and which have further been defined to include maintenance, monitoring,

and replacement, as needed, of project mitigation.

In addition, CDFG has required the City to provide security, in the amount of \$1,400,000, to ensure the success of the mitigation required by CDFG. This security could address, at least in part, provision of appropriate financial assurance for the mitigation required in this Order.

9. The City has proposed additional mitigation, as described in Finding 2. h., i. and j., and the staff report, to fully mitigate for the project's proposed impacts to wetlands and other waters of the United States. This Order requires the City to submit, prior to beginning construction on the proposed project, a final implementation plan describing additional mitigation activities to be undertaken in the Sinbad Creek watershed on Pleasanton Ridge, the watershed immediately to the west of the Arroyo de la Laguna watershed, and part of the Alameda Creek watershed. The implementation plan shall include detailed descriptions of the proposed activities, including appropriate project plans, an implementation schedule, and reporting.
10. The City applied to the Board for Water Quality Certification under Section 401 of the Clean Water Act on November 12, 1999. The City's application was denied without prejudice pursuant to Section 3838 of Title 23 of the California Code of Regulations (23 CCR §3838) on November 6, 2000, because the Board was unable to consider the application prior to the expiration of the one-year federal period for certification. On November 8, 1999, the U. S. Army Corps of Engineers (Corps) issued a Public Notice for a proposed Individual Permit for the project (Corps File No. 23275S) pursuant to Section 404 of the Clean Water Act.

Regulatory Authority

11. The Board has determined to regulate the proposed discharge of fill materials into waters of the State by issuance of WDRs pursuant to Section 13263 of the California Water Code (CWC) and 23 CCR §3857, in addition to issuing certification pursuant to 23 CCR §3859. The Board considers WDRs necessary to adequately address impacts and mitigation to beneficial uses of waters of the State from this project, to meet the objectives of the State Wetlands Conservation Policy (Executive Order W-59-93), and to accommodate and require appropriate changes over the life of the project and its construction.
12. The Board, on June 21, 1995, adopted, in accordance with Section 13244 et. seq. of the CWC, a revised Water Quality Control Plan, San Francisco Bay Basin (Basin Plan). This updated and consolidated revised Basin Plan was approved by the State Water Resources Control Board and the Office of Administrative Law on July 20, 1995, and November 13, 1995, respectively. A summary of regulatory provisions is contained in 23 CCR 3912. The Basin Plan defines beneficial uses and water quality objectives for waters of the State, including surface waters and groundwaters. This Order is in compliance with the

Basin Plan.

13. The subject wetlands, seasonal creeks, and other waters are located in the South Bay Basin, and are adjacent to or tributary to Happy Valley Creek. The Basin Plan does not explicitly identify beneficial uses for these waters. However, the Basin Plan states that “[t]he beneficial uses of any specifically identified waterbody generally apply to all of its tributaries.” Happy Valley Creek is tributary to the Arroyo de la Laguna, Alameda Creek, and thence to San Francisco Bay. The Arroyo de la Laguna and Alameda Creek have the following existing beneficial uses defined in the Basin Plan: agricultural supply, cold freshwater habitat, ground water recharge, fish migration; water contact recreation; non-contact water recreation; fish spawning; warm freshwater habitat; and wildlife habitat. Additionally, waters on the project site provide potential habitat for the preservation of rare and endangered species, including dispersal habitat for the federally listed threatened California Red-Legged Frog, and breeding habitat for the state-listed species of special concern California Tiger Salamander.
14. The Basin Plan Wetland Fill Policy (policy) establishes that there is to be no net loss of wetland acreage and no net loss of wetland value when the project and any proposed mitigation are evaluated together, and that mitigation for wetland fill projects is to be located in the same area of the Region, whenever possible, as the project. The policy further establishes that wetland disturbance should be avoided whenever possible, and if not possible, should be minimized, and only after avoidance and minimization of impacts should mitigation for lost wetlands be considered.
15. The goals of the California Wetlands Conservation Policy (Executive Order W-59-93, signed August 23, 1993) include ensuring “no overall loss” and achieving a “...long-term net gain in the quantity, quality, and permanence of wetland acreage and values....” Senate Concurrent Resolution No. 28 states that “[i]t is the intent of the legislature to preserve, protect, restore, and enhance California’s wetlands and the multiple resources which depend on them for benefit of the people of the State.” Section 13142.5 of the CWC requires that the “[h]ighest priority shall be given to improving or eliminating discharges that adversely affect...wetlands, estuaries, and other biologically sensitive areas.”

Proposed Project

16. This Order applies to the temporary and permanent fill and indirect impacts to waters of the State associated with the proposed project, which is comprised of the project components listed above. Construction of the project will result in the temporary placement of fill in and/or disturbance of 0.22 acres of wetlands and permanent placement of fill in 1.93 acres of wetlands and other waters of the United States. The permanent impact of this fill on waters was identified as a potentially significant impact in the Environmental Impact Report (hereinafter EIR) certified for the project’s Specific Plan.

17. On May 2, 2000, the City submitted a Clean Water Act 404(b)(1) Alternatives Analysis and supplemental information described in the Staff Report to show that appropriate effort was made to avoid and then to minimize wetland disturbance, as required by the Basin Plan. Board staff held extensive additional discussions with the City regarding its Alternatives Analysis. The Board concurs with the conclusions of the Alternatives Analysis, as supplemented.
18. The City proposes to complete the golf course project, including its associated fills, over approximately two years.
19. Discharges of storm water associated with construction activity will occur. The EIR certified for the project identifies such discharges, including the pollutants associated with them, as a potentially significant impact. The City is responsible for obtaining appropriate permits for these discharges, including complying with the rules and regulations of National Pollutant Discharge Elimination System (NPDES) permit requirements. This includes complying with the requirements of State Water Resources Control Board Water Quality Order No. 99-08-DWQ, the NPDES General Permit for Storm Water Discharges Associated with Construction Activity (hereinafter General Permit).
20. Discharges of storm water associated with the post-construction operation and maintenance of the project will occur following its completion. The EIR certified for the project identified such discharges, including the pollutants associated with them, as a potentially significant impact. The City is responsible for obtaining appropriate permits for these discharges, including complying with the rules and regulations of NPDES permit requirements. This includes complying with the requirements of NPDES Permit CAS0029831, the NPDES Municipal Storm Water Permit that covers the City of Pleasanton.
21. Because of the project's proximity to sensitive resources, including special status species habitat, and potential to discharge materials that could significantly impact those resources, this Order requires the City to submit a Storm Water Pollution Prevention Plan or Plans (SWPPPs) for the project, prepared pursuant to the provisions of the General Permit, at least 60 days prior to the beginning of construction for the project.
22. Discharges of ground water or other non-storm water during construction may be required. This Order considers such discharges covered by the General Permit, contingent on submittal of an acceptable discharge plan at least 30 days prior to such a discharge.
23. The City has submitted a conceptual Integrated Golf Course Management Plan (Plan) to address post-construction impacts from its proposed golf course. This Plan is not yet acceptable to the Board. Additionally, the City has not yet submitted a conceptual SWMP to address the project's other post-construction impacts. This Order requires the City to submit a site-specific SWMP and CHAMP, acceptable to the Executive Officer, at

least 90 days prior to the beginning of project construction, as further detailed in the following Finding.

24. As a part of the Board's consideration of appropriate mitigation measures for the project's post-construction/operation-stage direct and cumulative impacts to water quality and beneficial uses of waters of the State, this Order requires the City to submit, at least 90 days prior to construction, a site-specific SWMP, acceptable to the Executive Officer, including appropriate design measures and storm water treatment controls to minimize and mitigate those impacts. These impacts include potential impacts resulting from the discharge of pollutants associated with operation and maintenance of the proposed golf course, roads, parking, and proposed homes, including hydromodification impacts (i.e., the changes in runoff volume and/or timing resulting from increases in impervious surfaces and changes in drainage system design). The SWMP may also include a separate CHAMP or 'Integrated Golf Course Management Plan' to address post-construction operation and management of the proposed golf course. A SWMP and CHAMP appropriately designed to maximize benefits to water quality and beneficial uses of waters of the State could also satisfy the City's requirement under its NPDES permit to control pollutants to the maximum extent practicable.
25. The City has submitted a revised Wetland Mitigation Plan, dated September 1999, prepared by Wetlands Research Associates, Inc. This wetlands mitigation plan is not yet acceptable to the Board. This Order requires submittal of a wetlands mitigation plan, acceptable to the Executive Officer, at least 90 days prior to the beginning of project construction.
26. The City has submitted a Grazing Management Plan, prepared by Sage Associates, Inc. This grazing plan is not yet acceptable to the Board. This Order requires submittal of a grazing/resource management plan, acceptable to the Executive Officer, at least 90 days prior to the beginning of project construction.
27. The Alameda County Health Care Services Agency, in its letter of November 13, 2000, stated that "[s]ince 1974, a septic system moratorium has been in effect in the [Happy Valley Specific Plan Area] due to a number of problems associated with the groundwater in this area. The presence of high ground water, findings of high nitrate in the groundwater, and the high incidence of coliform contamination in water wells supplying water to the homes in the area prompted the septic system moratorium." The City submitted, on January 31, 2001, a description of the method by which area homeowners could connect to the proposed water and sewer lines. As proposed:
 - Existing homeowners choosing to connect to the new City sewer line would be required to remove or fill their existing on-site septic tanks;
 - Existing homeowners choosing not to connect would be permitted to retain their existing private sewer system, subject to the requirements of the Alameda County Department of Environmental Health;

- Room additions to existing homes would be permitted to use an existing private sewer system, as long as such addition does not add a bedroom or exceed 1,000 square feet in floor area; and,
- The replacement of private sewer systems which fail must follow the same rules as for new systems. This requires sanitary sewer connection if a public sewer line is within 200 feet.

This Order requires the City to report annually the number of new connections to the sanitary sewer in the Happy Valley Specific Plan Area. Should groundwater problems continue in this Area, the Board will work with appropriate agencies to address these problems.

28. The California Environmental Quality Act (CEQA) requires all projects approved by State agencies to be in full compliance with CEQA, and requires a lead agency to prepare an appropriate environmental document (e.g., Environmental Impact Report or Negative Declaration) for such projects. The Board finds, after review of the project's environmental documents, that all environmental impacts have been identified and, with compliance with the conditions of this Order, will be mitigated to a level of insignificance. On June 16, 1998, the City certified an Environmental Impact Report for the Happy Valley Specific Plan and Related Planning and Development Actions.
29. Pursuant to 23 CCR Sections 3857 and 3859, the Board is issuing WDRs and Water Quality Certification for the project as described herein.
30. The Board has notified the Corps, City, U.S. Fish and Wildlife Service (USFWS), CDFG, and other interested agencies and persons of its intent to prescribe WDRs and Water Quality Certification for this discharge.
31. The Board, in a public meeting, heard and considered all comments pertaining to the discharge.

IT IS HEREBY ORDERED that the City of Pleasanton, in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted thereunder, shall comply with the following, pursuant to authority under CWC Sections 13263 and 13267:

A. Discharge Prohibitions

1. The direct discharge of wastes, including rubbish, refuse, bark, sawdust, or other solid wastes into surface waters or at any place where they would contact or where they would be eventually transported to surface waters, including flood plains, is prohibited.
2. The discharge of floating oil or other floating materials from any activity in quantities sufficient to cause deleterious bottom deposits, turbidity, or discoloration in surface waters is prohibited.

3. The discharge of silt, sand, clay, or other earthen materials from any activity in quantities sufficient to cause deleterious bottom deposits, turbidity, or discoloration in surface waters is prohibited.
4. The wetland fill activities subject to these requirements shall not cause a nuisance as defined in CWC §13050(m).
5. The discharge of decant water from active dredging or fill sites and dredged material stockpile or storage areas to surface waters or surface water drainage courses is prohibited, except as conditionally allowed following the submittal of a discharge plan or plans as described in the Provisions.
6. The groundwater in the vicinity of the project shall not be degraded as a result of the project activities or placement of fill for the project.
7. The discharge of materials other than storm water, which are not otherwise regulated by a separate NPDES permit or allowed by this Order, to waters of the State is prohibited.
8. The discharge of drilling muds to waters of the State, or where such muds could be discharged to waters of the State, is prohibited.

B. Provisions

1. The City shall comply with all Prohibitions and Provisions of this Order immediately upon adoption of this Order or as provided below.
2. The City shall submit copies of all necessary approvals and/or permits for the project and mitigation projects from applicable government agencies, including, but not limited to, CDFG, USFWS, EBRPD, City of Pleasanton, and Corps, prior to the start of construction.

Project Implementation Deadlines

3. No construction shall commence until all required documents, reports, plans, and studies required in the Provisions have been submitted to the Executive Officer and brought back to the Board for its final approval.
4. Not later than 90 days prior to the beginning of construction, the City shall submit, acceptable to the Executive Officer, a creek recreation, revegetation, and monitoring plan for the proposed recreated creeks and enhanced existing creeks on the project site. This plan may be incorporated into the project's wetland mitigation plan. The plan shall include all appropriate detail for earthwork, planting, and other proposed work as described below. Such work shall include appropriate earthwork, planting, irrigation, and other work on both reconstructed and preserved channels adequate to ensure that such channels will be appropriately stable and that the water quality and beneficial uses

benefits of the work have been appropriately maximized to the maximum extent practicable. Upon the Executive Officer's determination that the plan is acceptable, the Executive Officer may determine that work may begin sooner than 90 days following submittal of the acceptable plan.

The plan must include:

- a. Proposed channel designs and earthwork for all creeks, including appropriate longitudinal and cross sections and plan views;
 - b. A detailed planting plan, including species lists, plant sizes and numbers, and planting designs relative to creek cross sections and plan views;
 - c. Appropriate hydrologic and fluvial geomorphologic studies adequate to demonstrate that enhanced and recreated creeks will function appropriately over time;
 - d. An irrigation plan;
 - e. Specific details and plans for all creek sections that will be culverted, bridged, or otherwise crossed or immediately adjoined by paths, structures, or similar improvements;
 - f. Signage and fencing designs adequate to prevent intrusion by golfers, golf carts, and other human intrusion into all creeks and creek buffer zones;
 - g. Appropriate provision for monitoring and determining that the enhanced and recreated creeks are successful. This shall include appropriate success criteria, monitoring for a period of not less than 10 years, and including both quantitative monitoring (e.g., benchmarked longitudinal and cross-section surveys, surface flow and groundwater monitoring), and all other appropriate quantitative monitoring at least every 2 years and more often as determined necessary, qualitative monitoring at least annually and more often as determined necessary, representative photographs, appropriate monitoring of vegetation, and all other work, as appropriate;
 - h. A finalized financial assurances proposal with all appropriate detail on financial assurances being provided to ensure the establishment and success, in perpetuity, of the proposed mitigation;
 - i. An implementation schedule; and,
 - j. All other information, as appropriate.
5. Not later than 90 days prior to the beginning of construction, the City shall submit, acceptable to the Executive Officer, a creek crossing plan for all proposed creek and/or wetland crossings on the project site. This plan may be incorporated into the creek recreation, revegetation, and monitoring plan required in the Provisions. The plan shall show appropriate details for all creek crossings. Such crossings shall be designed to minimize intrusion of roads, paths, utility lines, and other crossings of creeks and wetlands into the creeks, wetlands, and their associated buffer zones. To the maximum extent practicable, crossings shall be designed to avoid both direct impacts to waters and impacts to buffer zones (e.g., golf cart path crossings should be designed to address both the creek and its adjacent buffer zones).

6. Not later than 90 days prior to the beginning of construction, the City shall submit, acceptable to the Executive Officer, a conceptual post-construction SWMP including appropriate design measures and storm water treatment controls to address the project's urban runoff impacts to waters of the State. The SWMP shall provide for the appropriate treatment of at least 85% percent of average annual runoff from the developed areas of the site and shall include appropriate design details, planting plans, maintenance plans, funding mechanism, and all other information, as appropriate. Upon the Executive Officer's determination that the plan is acceptable, the Executive Officer may determine that work may begin sooner than 90 days following submittal of the acceptable plan.
7. Not later than 90 days prior to the beginning of construction, the City shall submit, acceptable to the Executive Officer, a wetland mitigation plan that addresses the proposed on-site wetland mitigation elements, including the pond reconstruction, pond creation, seasonal wetland creation, and seep creation. The creek recreation, revegetation, and monitoring plan may be combined with this plan. The City shall submit an as-built report within 60 days of installation of the proposed mitigation. Annual mitigation monitoring reports shall be submitted for a minimum of 5 years for the proposed seasonal wetlands, ponds, and seeps. Annual mitigation monitoring reports shall be submitted for a minimum of 10 years for the proposed recreated and enhanced creeks. The first annual report shall be submitted one year after the preparation of the as-built report, and subsequent reports shall be submitted on the anniversary date of the first annual report submittal. Upon the Executive Officer's determination that the plan is acceptable, the Executive Officer may determine that work may begin sooner than 90 days following submittal of the acceptable plan.
8. Not later than 30 days prior to the beginning of construction, the City shall submit, acceptable to the Executive Officer, a final SWMP with final construction details for all appropriate information included in the conceptual SWMP.
9. Not later than 30 days prior to the beginning of construction, the City shall submit, acceptable to the Executive Officer, a final CHAMP with final details for all appropriate information included in the conceptual CHAMP. The final CHAMP shall include appropriate requirements and information regarding golf course, drainage, chemical application, vegetation maintenance, equipment maintenance, and all other information, as appropriate.
10. Not later than 60 days prior to construction, the City shall submit, acceptable to the Executive Officer, a report demonstrating that it has maximized opportunities for use of reclaimed water, water recycling, and water reuse for the project, including the golf course, and that the project appropriately minimizes water use. However, it is not expected that the golf course project itself will be responsible for development of recycled water supplies.
11. Not later than 90 days prior to the beginning of construction, the City shall submit, acceptable to the Executive Officer, a final implementation plan describing the additional

mitigation activities to be undertaken in the Sinbad Creek watershed on Pleasanton Ridge. The implementation plan shall include detailed descriptions of the proposed activities, including appropriate project plans, an implementation schedule, and reporting. The plan or subsequent report shall demonstrate that the City has fully funded all activities to be completed by a third party by no later than 90 days prior to the beginning of construction. At a minimum, the plan shall include the following activities:

- a. EBRPD is ready to proceed with an acquisition of approximately 25-40 acres of land along Sinbad Creek. The City will contribute towards such acquisition in an amount not to exceed EBRPD's estimated cost of the property, as described in the February 12, 2001 Board Staff Report for this Order.
 - b. EBRPD plans to install barbed wire fencing to exclude park entrance by cattle to the Sinbad Creek watershed. This shall include 4,000 feet of new fence and 3,000 feet of fencing repairs along the northwest boundary on Sunol Ridge, and 6,000 feet of repair and replacement on the northern boundary that bisects the watershed. EBRPD does not graze cattle at this location, but cattle from neighboring ranches regularly intrude. Adequate fencing shall reduce fecal contamination and damage to steep slopes from cattle. The City shall fully fund this work.
 - c. EBRPD plans to remove the remains of old cabins and related debris along the bank of Sinbad Creek. The City shall fully fund this work.
12. Not later than 60 days prior to the beginning of construction, the City shall submit, acceptable to the Executive Officer, an irrigation/detention pond construction, operation, and maintenance plan. The proposed irrigation/detention ponds, as designed, are presently hydraulically connected to Happy Valley Creek and, thus, are considered waters of the State. Therefore, water discharged into the ponds must comply with applicable limits in the Basin Plan and all other appropriate regulatory documents. All maintenance work in the ponds requiring approvals from the Board must be completed with appropriate approvals from the Board. No chemicals or other materials that change ambient pond pH or clarity may be added to or allowed to runoff into the ponds. The use of algicides in the ponds, including copper-based algicides, is prohibited. The construction, operation, and maintenance plan shall include appropriate measures to ensure that applicable regulations are addressed and complied with.
 13. Not later than 60 days prior to the beginning of construction, the City shall submit, acceptable to the Executive Officer, final conservation easements covering the three proposed mitigation Areas on the project site, including the Koopman property.
 14. Not later than 60 days prior to the beginning of construction, the City shall submit, acceptable to the Executive Officer, a SWPPP to address the project's expected construction stage impacts.

15. Not later than 90 days prior to the beginning of construction, the City shall submit, acceptable to the Executive Officer, a grazing/resource management plan (RMP) to enhance water quality and beneficial uses of waters of the State. The RMP shall include all appropriate measures to manage grazing in all conservation areas (i.e., the East, South, and Koopman conservation areas), including, but not limited to, seasonality, length, and intensity of grazing, fencing, provision of upland water sources, type of grazing, and all other information, as appropriate.
16. The construction of proposed reconstructed creeks and mitigation seeps and wetlands shall be completed within the same calendar year as impacts occur, or at least no later than 9 months following the close of the calendar year in which impacts first occur (e.g., if impacts occur in June 2001, construction of mitigation for all impacts must be completed no later than September 2002).
17. The City shall submit annually to the Executive Officer, by June 30 of each year, a report listing the numbers and locations of property owners who have connected to the sanitary sewer system within the Happy Valley Specific Plan Area.

Notice of Mitigation Completion

18. When the City has determined that the mitigation has achieved the final success criteria specified in a wetland mitigation plan approved by the Executive Officer, it shall submit a notice of mitigation completion (notice), acceptable to the Executive Officer. The notice shall include a status report on the implementation of the long-term maintenance and management portion of the wetland mitigation plan. After acceptance of the notice in writing by the Executive Officer, the City's submittal of annual mitigation monitoring reports for its mitigation is no longer required.
19. Any changes to the final mitigation plans referenced in the Provisions must be approved in writing by the Executive Officer.

Other Provisions

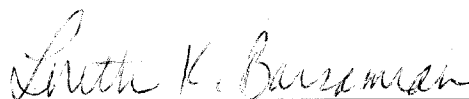
20. All reports pursuant to these Provisions shall be prepared under the supervision of suitable professionals registered in the State of California.
21. The City shall immediately notify the Board by telephone whenever an adverse condition occurs as a result of this discharge. Such a condition includes, but is not limited to, a violation of the conditions of this Order, a significant spill of petroleum products or toxic chemicals, or damage to control facilities that would cause noncompliance. Pursuant to CWC §13267(b), a written notification of the adverse condition shall be submitted to the Board within two weeks of occurrence. The written notification shall identify the adverse condition, describe the actions necessary to remedy the condition, and specify a timetable, subject to the modifications of the Board, for the remedial actions.

22. Should discharges of otherwise uncontaminated ground water contaminated with suspended sediment or other non-storm water that has accumulated in utility trenches or other portions of the project be required, where such discharges are not otherwise covered by an applicable NPDES permit, such discharges may be considered covered by the General Permit, following the submittal of a discharge/treatment plan, acceptable to the Executive Officer, at least 30 days prior to such a discharge.
23. The City shall notify the Board in writing at least 30 days prior to actual start dates for each project component (golf course and housing).
24. The City shall at all times fully comply with the engineering plans, specifications, and technical reports submitted with its application for water quality certification and the completed report of waste discharge.
25. The City is considered to have full responsibility for correcting any and all problems that arise in the event of a failure that results in an unauthorized release of waste or wastewater.
26. The discharge of any hazardous, designated or non-hazardous waste as defined in Title 23, Division 3, Chapter 15 of the California Administrative Code, shall be disposed of in accordance with applicable state and federal regulations.
27. The City shall remove and relocate any wastes that are discharged at any sites in violation of this Order.
28. In accordance with CWC §13260, the City shall file with the Board a report of any material change or proposed change in the ownership, character, location, or quantity of this waste discharge. Any proposed material change in operation shall be reported to the Executive Officer at least 30 days in advance of the proposed implementation of any change. This shall include, but not be limited to, all significant new soil disturbances, all proposed expansion of development, or any change in drainage characteristics at the project site. For the purpose of this Order, this includes any proposed change in the boundaries of the wetland/waters of the United States fill sites.
29. The following standard conditions apply to this Order:
 - a. Every certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to CWC §13330 and 23 CCR §3867.
 - b. Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR §3855(b) and that application specifically identified that a FERC license or amendment to a FERC

license for a hydroelectric facility was being sought.

- c. Certification is conditioned upon total payment of any fee required pursuant to 23 CCR §3833 and owed by the discharger.
30. The City shall maintain a copy of this Order at the project site so as to be available at all times to site operating personnel and agencies.
31. The City shall permit the Board or its authorized representative at all times, upon presentation of credentials:
- a. Entry onto project premises, including all areas on which wetland fill or wetland mitigation is located or in which records are kept.
 - b. Access to copy any records required to be kept under the terms and conditions of this Order.
 - c. Inspection of any treatment equipment, monitoring equipment, or monitoring method required by this Order.
 - d. Sampling of any discharge or surface water covered by this Order.
32. This Order does not authorize commission of any act causing injury to the property of another or of the public; do not convey any property rights; do not remove liability under federal, state, or local laws, regulations or rules of other programs and agencies, nor does this Order authorize the discharge of wastes without appropriate permits from other agencies or organizations.
33. The Board will consider rescission of this Order upon project completion and the Executive Officer's acceptance of notices of completion of mitigation for all mitigation, creation, and enhancement projects required or otherwise permitted now or subsequently under this Order.

I, Loretta K. Barsamian, Executive Officer, do hereby certify that the foregoing is a full, complete, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on February 21, 2001.



Loretta K. Barsamian
Executive Officer